

STATE OF WISCONSIN
Department of Industry, Labor and Human Relations

In the Matter of the Petroleum
Environmental Cleanup Fund Act (PECFA)
Application of:

Mr. Gary Grabarec
Re: 26325 103rd St. Trevor, Wisconsin

This is an appeal of a decision of the DILHR Division of Safety and Buildings which denied part of a claim for reimbursement under §101.143, Stats., the Petroleum Environmental Cleanup Fund Act (PECFA).

Among other items that are not at issue, the petitioner submitted a claim for the reimbursement of \$2,314.16 in interest costs under §101.143, Wis. Stats. The Division of Safety and Buildings approved a payment of \$1,558.41. The petitioner's request for hearing is limited to the denial of the difference of \$755.75.

In lieu of a hearing, the parties have agreed that a decision may be issued on the basis of the department's record and correspondence from the petitioner. I conclude that the denial of \$755.75 in interest reimbursement was correct.

FINDINGS OF FACT

1. If it finds that all applicable requirements have been met, DILHR is required to issue an award to reimburse a claimant for eligible costs incurred for the inspection and remediation of contamination from a petroleum products discharge from a petroleum product storage system. §101.143(4), Stats.

2. The Safety and Buildings Division (hereafter "Division") recalculated the petitioner's claim for the interest paid on borrowed funds because, instead of establishing a line of credit to pay PECFA-related charges as they came due, the petitioner took out at least two separate loans, put the money in his own account, and then paid the charges.

3. The petitioner does not challenge the financial calculations of the Division, but asks that he not be required to bear the extra interest expense simply because he did not use a line of credit.

CONCLUSIONS OF LAW

1. Interest costs in excess of the minimum amount necessary to obtain remediation funding should not be reimbursed under §101.143(4), Stats.

OPINION

The petitioner has made a sincere attempt to comply with all of the cleanup requirements of the law. He points out that he has saved the state \$1,500.00 by paying his lawyer (instead of a consultant) to process his PECFA claim.

Unfortunately, these good deeds cannot be recognized by allowing the \$755.75 in admittedly extra interest expenses. The PECFA statute is intended to assist property owners who must clean up certain types of petroleum contamination, but it places clear limits on reimbursements to conserve the public funds that are used. The statute does not authorize DILHR to award extra reimbursement in one category because the claimant has saved money in another category.

It is reasonable for the Division to limit its interest reimbursement to the equivalent of a line of credit. This meets the express requirement of the statute and provides potential claimants with an incentive to keep costs as low as possible.

ORDER

For these reasons, the previous decision of the Division of Safety and Buildings in this matter is affirmed.

Dated this 29th day of January, 1993.

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